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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA NATURAL PRODUCTS	)	Case No. 2:12-CV-00593-JAM-GGH
(d/b/a POWER AUTOMATION	)	
SYSTEMS), a California	)	<u>ORDER RE: PLAINTIFF'S MOTION</u>
Corporation,	)	<u>FOR EXPEDITED DISCOVERY</u>
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
ILLINOIS TOOL WORKS, INC.	)	
(d/b/a HARTNESS INTERNATIONAL,	)	
INC.), a Delaware Corporation,	)	
	)	
Defendant.	)	

This matter is before this Court on plaintiff CALIFORNIA NATURAL PRODUCTS' (d/b/a POWER AUTOMATION SYSTEMS) ("PAS") Motion for Expedited Discovery (Doc. #18). The Motion is opposed by Defendant (Doc #24). Upon consideration of this Motion, as well as the proposed discovery requests filed therewith, and the entire record herein and finding good cause therefor,

IT IS HEREBY ORDERED that PAS's Motion for Expedited Discovery is GRANTED in part and DENIED in part as follows:

1. PAS's 30(b)(6) Deposition Notice attached as Exhibit A to its Motion for Expedited Discovery is deemed served on defendant

1 ILLINOIS TOOL WORKS, INC. (d/b/a HARTNESS INTERNATIONAL, INC.)  
2 ("ITW") at this time. The deposition shall commence on a date  
3 mutually agreeable to both parties, but no later than April 4, 2012  
4 at 10:00 a.m.;

5 2. PAS's Request for Production of Documents ("Documents  
6 Request") attached as Exhibit B to its Motion for Expedited  
7 Discovery is deemed served on ITW at this time. The Court finds  
8 ITW's objections to PAS's Documents Request to be meritorious, in  
9 part. For purposes of the Motion for Preliminary Injunction, some  
10 of the document requests are overbroad and go beyond the boundaries  
11 of the Preliminary Injunction Motion.

12 Accordingly, the following guidelines shall apply to the  
13 Documents Request:

14 (a) The parties are instructed to immediately meet and confer  
15 concerning a protective order, given that PAS is requesting ITW to  
16 produce some documents which are likely to contain confidential and  
17 proprietary information. The Court believes that a "for attorneys'  
18 eyes only" protective order is too narrow, however, and that the  
19 protective order must, at a minimum, also allow an expert witness  
20 and up to two knowledgeable individuals designated by each party to  
21 view any documents marked confidential and proprietary. A  
22 protective order should be submitted to the Court for approval no  
23 later than March 20, 2012.

24 (b) No documents dated prior to January 2010 shall be  
25 required to be produced by ITW at this time.

26 (c) ITW shall make its best efforts to produce the following  
27 documents to PAS:

28 1. Promotional, advertising and marketing materials

1 related to or developed for ITW's "StorFast" system including,  
2 but not limited to, the document attached to PAS's Rule  
3 30(b) (6) deposition notice as Exhibit 1.

4 2. Promotional, advertising and marketing materials  
5 developed for potential customers or provided to actual  
6 customers at the MODEX trade show in Atlanta, Georgia in  
7 February 2012; and any documents identifying actual customers  
8 to whom these materials were given.

9 3. Promotional, advertising and marketing materials  
10 provided to SIBCO or anyone acting on its behalf including,  
11 but not limited to, Eric Tverberg.

12 4. Promotional, advertising and marketing materials  
13 provided to Coca-Cola in Malaysia or anyone acting on its  
14 behalf.

15 5. Any and all documents containing statements or  
16 representations by ITW that it developed and/or installed an  
17 automated storage and retrieval system with a lift and a cart  
18 at any of the sites identified in Exhibit 1 to PAS's Rule  
19 30(b) (6) deposition notice, as well as the Pepsi bottler in  
20 North Carolina.

21 (d) The Court admonishes PAS and ITW that it expects the  
22 parties to fully cooperate with each other and make a good faith  
23 effort to resolve any disputes that may arise concerning this Order  
24 without further involvement of the Court. However, if the parties  
25 are unable to informally resolve any such disputes and, instead  
26 choose to submit a discovery dispute related to this Order to the  
27 Court for resolution, the motion should be submitted to Magistrate  
28 Judge Hollows pursuant to Local Rule 302(c) (1).


1           3.     ITW shall make its representative(s) available for  
2 deposition within twenty (20) days of this Order;

3           4.     ITW shall deliver to PAS's counsel by hand or fax or  
4 email (pdf) its written responses and responsive documents within  
5 fifteen (15) days of this Order; and

6           5.     PAS is permitted to immediately issue a subpoena to  
7 Precision Distribution Consulting, Inc., in the form attached as  
8 Exhibit C to its Motion for Expedited Discovery.

9           IT IS SO ORDERED.

10          Dated:   March 14, 2012.

  
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JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE

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